

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CARL WILSON, an individual,)
and AUDREE WILSON, an)
individual,)
Plaintiffs,)
v.)
HARPERCOLLINS PUBLISHERS,)
INC., a Delaware corporation,)
Defendant.)

UNITED STATES DISTRICT COURT
DEPARTMENT OF NEW MEXICO

97 APR 21 AM 11:44

Case No. CIV 94 892 JC

Robert M. Marshall
CLERK-ALBUQUERQUE

**PLAINTIFF AUDREE WILSON'S MEMORANDUM OF LAW IN RESPONSE
TO HARPERCOLLINS' MOTION FOR SUMMARY JUDGMENT**

ORAL ARGUMENT REQUESTED

I. PRELIMINARY STATEMENT

The passages upon which Audree Wilson has sued accuse her of being a "bystander who refused to intercede in the flagrant child abuse going on in front of her." [Book p. 27; Second Amended Complaint ¶10.] The Book defines flagrant child abuse with the examples of her son Brian Wilson receiving blows with a splintered 2x4 board across his back and midsection (Book p. 25) and being tied to a tree (Book p. 27). The Book also asserts that the incidents described "are modest compared to the worst." [Book p. 27; Second Amended Complaint ¶11.]

HarperCollins' motion for summary judgment relies on a grossly distorted application of the substantial truth doctrine, which ignores Audree Wilson's testimony that the examples of flagrant child abuse described in the Book did not occur.

Plaintiff, who is now in her 80's, testified:

"Q. [The Book states:] . . . 'I was doubled over, lying on the ground in a fetal position, trying to shield whatever part of my skinny little boy's body I could from my father. With a splintered two-by-four, he delivered blows to my back and midsection, standing over me, a giant with a giant's weapon, swinging it over and over as if truly delighted by the dull thud it made against my torso.

'Stop, Dad. Please. You're hurting me.' Why was he doing this?

Moments earlier I had been playing with our neighbor's puppy, which my dad had volunteered to watch while its owner was out of town. He kept it chained in our backyard. Wanting to play fetch with the dog, I untied the little critter. But no sooner did I loosen his collar than the dog ran off into another yard.

Although I called him, my dad and not the dog came flying around the house. The expression on his face told me what was coming. He asked what the hell happened, but didn't wait for me to answer. That was obvious. Looking for something with which to strike

me, he picked up the nearest implement -- the splintered two-by-four -- and began swinging full force into the center of my back.

With the first blow, I let out a cry and doubled over but he kept swinging.

'I thought I told you not to unleash the dog,' he said.

'Ouch!' 'Buckle up, ya namby-pamby,' he said.
'Ouch!'

One more shot to my leg and he tossed the board to the side. I didn't dare look up at him as he went back to the house.

'And bring the mutt back,' he called.

Q. Do you recall such an incident being recounted to you by either Murray or Brian?

A. Never. It's ridiculous

Q. You want to supplement your answer?

A. Do I what?

Q. Do you want to add to your answer?

A. It's a lot of hogwash.

Q. How do you know?

A. I just know.

Q. Were you there?

A. No.

Q. How do you know it didn't happen?

A. I don't think it happened. No. A man picking up a splintered, what was it?

Q. Two-by-four board.

A. Two-by-four. No. It's not true.

Q. It's not true?

A. I don't think it's true at all. No.

Q. And the basis for your belief that it didn't happen is what?

A. Well, I - first of all, I think Brian would have been bruised and have splinters in him being whacked that hard. No. It didn't happen. I don't know where that came from.

[Audree Wilson Depo. pp. 205-208, attached as Exhibit 1.]

* * *

Q. What is the harshest physical punishment you're aware Murray ever administered to one or more of his sons?

A. I think he took his belt off, in fact, I know he did, and -- I don't know which one -- cracked them across the rear end.

Q. How many times?

A. Oh, I don't know. Not many.

Q. How old was the person who was whacked with the belt?

A. Approximately nine."

[Audree Wilson Depo. p. 210, attached as Exhibit 1.]

* * *

"Q. [Are the stories true of Murray] 'forcing preteen Brian to defecate on a newspaper to humiliate him or punishing the brothers by forcing them to stare into the socket of his false eye?

A. Total, unmitigated gall and lie, lie, lie."

[Audree Wilson Depo. p. 259, attached as Exhibit 1.]

* * *

"Q. And on how many occasions altogether would you say you were present when he administered one form of physical punishment or another to the boys? Whether in the house or in the studio or in the street or anywhere else?

A. I would not venture to guess.

Q. I don't want you to guess. Can you make some reasonable estimate?

A. In all of our years together you mean?

Q. Yes, ma'am.

A. Maybe five.

Q. And is it your recollection that in each of those five instances that you sought to stop Murray from inflicting the physical punishment?

A. I don't remember."

[Audree Wilson Depo. p.p. 207-208, lns. 9-18, attached hereto as Exhibit 1.]

The Declaration of Carl Wilson, attached as Exhibit 2 confirms the falsity of the defamatory charge:

"The Book (p. 27) accuses my mother Audree of failing to intercede in 'flagrant child abuse going on in front of her', against my brother Brian by my father Murray. The Book describes the flagrant child abuse with the examples of Brian being tied to a tree, and Brian being hit repeatedly with a splintered 2x4 board across his back and midsection. To my knowledge those incidents never occurred. If they had occurred, or if any incidents of that magnitude had occurred, I surely have known about them since I shared a room with my brother Brian and we talked about the punishments we received from our father. While our father did spank or hit us

from time to time while we were growing up, I never experienced or heard about the types of flagrant child abuse described in the Book."

[Declaration of Carl Wilson, attached as Exhibit 2.]

HarperCollins asserts that Audree Wilson's testimony acknowledging that her husband hit Brian with his hand and spanked one of the boys with his belt once, establish the substantial truth of the defamatory passages. HarperCollins' defense of truth fails because those facts are of the type which would produce a different effect upon the reader than do allegations that she allowed flagrant child abuse to occur along the lines of delivering repeated blows with a splintered 2x4.

II. APPLICABLE LAW & ARGUMENT

The doctrine of substantial truth which HarperCollins invokes provides that "minor inaccuracies do not amount to falsity so long as 'the substance, the gist, the sting of the libellous charge be justified.'" Masson v. New Yorker Magazine, Inc., 501 U.S. 496, 517 (1991). However, this definition which the motion quotes is only a partial explanation of the law. As the United States Supreme Court went on to explain in Masson, the "statement is not considered false unless it 'would have a different effect on the mind of the average reader'" from that which the asserted truth would have produced. Masson, 501 U.S. at 517. For example, in Kurz v. Evening News Assn., 453 N.W. 2d 309 (Mich. Ct. App. 1990), the article truthfully reported the fact of the plaintiff's arrest on charges of assaulting a police officer with a shotgun, but according to the plaintiff's

allegations, falsely stated that the plaintiff had threatened to kill someone and fire a shot. The trial court granted summary judgment in favor of the defendant newspaper, and the Court of Appeal reversed, because there was a factual dispute as to whether the plaintiff had ever threatened to kill anyone or in fact had fired his weapon:

"Given the tenor of the entire article, we cannot say as a matter of law that this possible inaccuracy constitutes an 'inaccuracy that does not alter the complexion of the affair and would have no different effect on the reader than that which the literal truth would produce.'"

Kurz, 453 N.W. 2d at 310. The substantial truth rule is also reflected in New Mexico Jury Instruction 13-1006, defining falsity: "One or more statements of fact in the communication must be false in a material way. Insignificant inaccuracies of expression are not sufficient."

HarperCollins' motion is wrong to assert that Plaintiff bears the burden of proving falsity, in view of this Court's determination that Plaintiff is a private figure (which the Court ruled in denying HarperCollins' earlier motion for summary judgment on actual malice and negligence). As the New Mexico Uniform Jury Instructions provide, where the Plaintiff is a private figure, truth operates as a defense for which the defendant has the burden of proof. N.M.U.J.I. 13-1013. This is the common law rule that falsity is presumed. As the Committee Notes to New Mexico Jury Instruction 13-1013 shows, this placement of the burden on the defendant is in accord with the

United States Supreme Court's ruling in Philadelphia v. Hepps, 475 U.S. 767 (1986), that under the First Amendment the burden of proof in cases against media defendants shifts to the plaintiff only: in cases involving private figures with issues of public concern; in cases involving public officials; and in cases involving public figures with issues of public concern.

Philadelphia v. Hepps, 475 U.S. at 768-769. See, Ramirez v. Rogers, 540 A.2d 475 (Supr. Jud. Ct. Me. 1988) (defendant has burden of proving truth of statements accusing private figure plaintiff of abuse toward gymnastic school students).

Two additional points should be understood. The fact that Defendant bears the burden of proving truth has no practical effect on the application of the substantial truth doctrine:

"The essence of that inquiry remains the same whether the burden [on truth/falsity] rests upon plaintiff or defendant."

Masson v. New York Magazine, Inc., 501 U.S. 496, 517 (1991). However, HarperCollins' failure to provide a declaration by Brian Wilson or any witness attesting to truth exposes a critical failure on HarperCollins' part to meet its burden of proof.

Applying the law to the facts, the question presented by HarperCollins' motion is: Does the admission that Plaintiff allowed her child to be hit with his father's hand and possibly once with his belt produce the same effect on the reader as accusations of standing by in the face of flagrant child abuse as exemplified by repeated blows across the back and midsection with a splintered 2-by-4? Plaintiff submits that the answer is

clearly, "no," or at least a question for the jury, as it was in Masson.

A parent has the right, under California law, to administer reasonable corporal punishment. People v. Whitehurst, 9 Cal. App. 4th 1045, 1050 (1992); People v. Curtis, 116 Cal. App. Supp. 771, 775 (Ct. App. 1931). In hindsight, Audree Wilson's personal view is that any such corporal punishment is abusive. However, that does not change the falsity of the charge made against her by HarperCollins in the Book. Beating a child with a splintered 2x4 is criminal child abuse under California Penal Code Section 273. In People v. Jaramillo, 98 Cal. App. 3d 830 (1979), the defendant mother was convicted of felony child endangering (Penal Code §273a) for hitting her child with ". . . an 18 to 20-inch long, 1 inch diameter stick . . ." Furthermore, California law is clear that a parent who stands by and allows such child abuse is also guilty of violation of Penal Code section 273. People v. Figueroa, 167 Cal. App. 3d 981 (1985). California law is relevant because that is where the flagrant child abuse is said to have occurred, and it is the state of Plaintiff's residence.

In view of the fact that HarperCollins' motion presents no admissible evidence that incidents of flagrant child abuse occurred along the lines described in the Book, and HarperCollins bears the burden of proof, the motion should be denied. In this regard, the Court should be aware that HarperCollins' assertion that incidents of child abuse were reported in an earlier article by Steven Gaines in *New West* magazine, and his subsequent book

about the Beach Boys ("Heroes & Villains, The True Story of the Beach Boys") do not constitute a source of admissible evidence on the issue of truth. Newspaper articles constitute a "classic case of double hearsay," and are inadmissible to prove the truth of the matter asserted. New England Mutual Life Ins. Co. v. Anderson, 1987 U.S. Dist. LEXIS 8188 (D. Kan. 1987), *aff'd*, 888 F.2d 646, 650 (10th Cir. 1989). Further, serious discrepancies between Mr. Gaines' article and book on the subject of abuse, underscore the very reasons why the materials are inadmissible hearsay -- they are the product of second hand reports by unknown persons. See New England Mutual Life, 888 F.2d at 650 ("[T]he fact that the statement was in the form of a newspaper account reinforces its hearsay character, for the final product is not the reporter's alone"). Mr. Gaines' *New West* article states, "Audree sobbed quietly and helplessly in the background, she says, while her husband unleashed an arsenal of sadistic punishments on the boys - forcing a preteen Brian to defecate on a newspaper to humiliate him or punishing the brothers by forcing them to stare into the socket of his false eye." [Exhibit 3 hereto, and part of HarperCollins' Exhibit C.] Significantly, however, his subsequent book "Heroes & Villains" does not identify Audree as the source, and moreover, reports that the story may be derived from a prank by Brian and his brothers with rubber doggy-do:

"Once, to humiliate a preteen Brian, Murray reportedly forced him defecate on a newspaper or plate in front of the family. (This story

has many versions. Another popular one is that Brian and his brother served up a portion of rubber "doggy-do" to Murray on a plate, which was taken as a good-natured prank. Both versions of the story are sworn to.)"

["Heroes and Villains", p. 47, attached hereto as Exhibit 3, and part of HarperCollins' Exhibit F.]

HarperCollins' assertion that Audree Wilson suffered no reputational injury because of those prior works speaks to an issue that has no relevance to the motion for summary judgment, and is in any event incorrect. It is important to remember that "Wouldn't It Be Nice" is presented as an autobiography, and as such purports to provide a first-hand account. By contrast, the prior book and articles to which HarperCollins refers are not, and readers of those pieces would expect that they report second hand rumors. Further, it is hornbook common law that, subject to only a few exceptions for fair and true reports of judicial proceedings and official charges, "one who repeats or otherwise publishes defamatory matter is subject to liability as if he had originally published it." (Restatement Tort 2d § 578).

Contrary to HarperCollins' assertion, Audree Wilson did testify to suffering injury from the Book's assertion that she stood by and watched flagrant child abuse occur:

"Q. . . . [C]ould you please describe for me the emotional distress that you suffered.
A. Well, it was humiliation, wondering if the people I was meeting had read the book and believed it. It made me shy.
Q. What do you mean it made you shy?
A. Well, it made me sort of withdrawn. In my own head I

felt that way."

[Audree Wilson Depo. p. 337.]

III. CONCLUSION

The substantial truth argument HarperCollins asserts is unavailing, and the motion fails to present evidence proving the type of flagrant child abuse described in the Book. Significantly, no declaration by Brian Wilson or any witness is provided.

For all of the foregoing reasons, Plaintiff Audree Wilson respectfully submits that HarperCollins' motion for summary judgment should be denied.

DATED: March 19, 1997

Respectfully submitted,

LANGBERG, COHN & DROOZ

By: 

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(310) 979-3200

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3602 Campus Boulevard N.E.
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PROOF OF SERVICE
1013A (3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 12100 Wilshire Boulevard, Suite 1650, Los Angeles, California 90025.

On March 19, 1997, I served the foregoing document described as **PLAINTIFF AUDREE WILSON'S MEMORANDUM OF LAW IN RESPONSE TO HARPERCOLLINS' MOTION FOR SUMMARY JUDGMENT** in this action:

 by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

X by placing the original X a true copy thereof enclosed in sealed envelopes addressed as follows:

R. Bruce Rich, Esq.
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10153

William S. Dixon, Esq.
Rodey, Dickason, Sloan, Akin & Robb, P.A.
Albuquerque Plaza
201 Third Street NW, Suite 2200
Albuquerque, New Mexico 87103

X BY MAIL

X I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 19, 1997, at Los Angeles, California.

X FEDERAL I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

BARRY B. LANGBERG





1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

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6

CARL WILSON, an individual and)
AUDREE WILSON, an individual,)
Plaintiffs,)

CERTIFIED COPY

10

vs

1 NO. CIV 94 883 JC

11

HARPERCOLLINS PUBLISHERS VOLUME 11

13

INC., a Delaware corporation.

13

Defendant

14

Continued deposition of **AUDREE WILSON**,
taken at 9500 Wilshire Boulevard,
Beverly Hills, California, commencing
at 10:00 A.M., Tuesday, November 5, 1996,
before Paulette M. Griffin, CSR No. 2489

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81

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PAGES 135 - 331

Interim. COURT REPORTING

3530 WILSHIRE BOULEVARD, SUITE 1700
LOS ANGELES, CA 90010
(213) 385-4000 • (800) 722-1235
Fax (213) 380-8514

1 Wilson

2 "It wasn't the only
3 impression that's lasted. I remember
4 standing in the backyard. A
5 nine-year-old boy. Helpless.
6 Screaming."

7 Quote, "'Ouch. Stop, please.
8 Ouch!'" Unquote.

9 "I was doubled over, lying on
10 the ground in a fetal position, trying
11 to shield whatever part of my skinny
12 little boy's body I could from my
13 father. With a splintered
14 two-by-four, he delivered blows to my
15 back and midsection, standing over me,
16 a giant with a giant's weapon,
17 swinging it over and over as if truly
18 delighted by the dull thud it made
19 against my torso.

20 "'Stop, Dad. Please.
21 You're hurting me.' Why was he doing
22 this?

23 Moments earlier I had been
24 playing with our neighbor's puppy,
25 which my dad had volunteered to watch

1 Wilson

2 while its owner was out of town. He
3 kept it chained in our backyard.

4 Wanting to play fetch with the dog, I
5 untied the little critter. But no
6 sooner did I loosen his collar than
7 the dog ran off into another yard.

19 "With the first blow, I let
20 out a cry and doubled over but he kept
21 swinging.

22 "I thought I told you not
23 to unleash the dog," he said.

1 Wilson

2 "Ouch!" .

3 "One more shot to my leg and
4 he tossed the board to the side. I
5 didn't dare look up at him as he went
6 back to the house.

7 "And bring the mutt back,"
8 he called."

9 Do you recall such an incident
10 being recounted to you by either Murry or Brian?

11 A. Never. It's ridiculous.

12 MS. DUMAS: Court Reporter, did you
13 get that?

14 THE REPORTER: (Nods head.)

15 BY MR. RICH:

16 Q. You want to supplement your
17 answer?

18 A. Do I what?

19 Q. Do you want to add to your answer?

20 A. It's a lot of hogwash.

21 Q. How do you know?

22 A. I just know.

23 Q. Were you there?

24 A. No.

25 Q. How do you know it didn't happen?

1 Wilson

2 A. I don't think it happened. No. A
3 man picking up a splintered, what was it?

4 Q. Two-by-four board.

5 A. Two-by-four. No. It's not true.

6 Q. It's not true?

7 A. I don't think it's true at all.

8 NO.

9 Q. And the basis for your belief that
10 it didn't happen is what?

11 A. Well, I -- first of all, I think
12 Brian would have been bruised and have splinters
13 in him being whacked that hard. No. It didn't
14 happen. I don't know where that came from.

15 Q. Were you aware of all instances in
16 which Murry lifted a hand to Brian?

17 A. I think so.

18 Q. How did you become aware of them?

19 A. Well, I was either around or the
20 boys told me.

21 Q. And you were never told of this
22 incident?

23 A. Never, huh-uh.

24 Q. You seem shocked by the reported
25 force of the beating. . .

1 Wilson

2 A. I do.

3 Q. What is the harshest physical
4 punishment you're aware Murray ever administered
5 to one or more of his sons?

9 Q. How many times?

10 A. Oh, I don't know. Not many.

11 Q. How old was the person who was
12 whacked with the belt?

13 A. Approximately nine.

14 Q. Who was it?

15 A. I don't really know.

16 Q. How do you know it happened?

17 A. Because I was there.

18 Q. Did you approve of the beating?

19 A. Of course not.

20 Q. What did you do?

21 A. What did I do?

22 Q. Yes.

23 A. I probably yelled at Murry.

24 Q. Probably or do you remember yelling
25 at him?

1

Wilson

2

helplessly in the background, she
says, while Murry unleashed an arsenal
of sadistic punishments on the boys --
forcing a preteen Brian to defecate on
a newspaper to humiliate him or
punishing the brothers by forcing them
to stare into the socket of his false
eye."

10

A. Total, unmitigated gall and lie.

11

Lie, lie, lie.

12

Q. Everything stated in there is a
lie, lie, lie?

14

A. What is the beginning of it?

15

Q. Let's go through it sentence by
sentence.

17

A. Sock -- where was I doing this?

18

Q. "Audree sobbed quietly and
helplessly in the background while Murry
unleashed an arsenal of sadistic punishments on
the boys."

22

A. Huh-uh. Huh-uh. He's an asshole.

23

Q. Having had this passage read to
you, is your recollection in any way refreshed,
Ms. Wilson, about giving an interview to Steven

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

16 Continued deposition of AUDREE WILSON,
17 at 10430 Wilshire Boulevard, Suite
18 1105, Los Angeles, California,
19 commencing at 10:40 A.M., Friday,
20 January 17, 1997, before Marchelle.
21 Hartwig, CSR No. 9347.

1 Wilson

2 Q There is an allegation in your complaint
3 that you've suffered emotional distress and shame as
4 a result of the statements that you've sued on. My
5 question to you is, could you please describe for me
6 the emotional distress that you suffered.

7 A Well, it was humiliation, wondering if
8 the people I was meeting had read the book and
9 believed it. It made me shy.

10 Q What do you mean it made you shy?

11 A Well, it made me sort of withdrawn. In
12 my own head I felt that way.

13 MS. DUMAS: Could you read back the witness's
14 full answer to me.

15 (Record read.)

16 MS. DUMAS: I think I'm done with my
17 questioning, but I think I will mark as an exhibit
18 this letter just so we have a neat deposition record.
19 So here is a letter addressed to Tom Miller, Editor
20 of HarperCollins Publishers, dated August 8, 1991.
21 And it's a letter from which I quoted earlier in my
22 questioning.

23 (Plaintiffs' Exhibit 26 was
24 marked for identification and is
25 annexed hereto.)



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CARL WILSON, an individual,) Case No. CIV 94 892 JC
and AUDREE WILSON, an)
individual,)
Plaintiffs,)
v.)
HARPERCOLLINS PUBLISHERS,)
INC., a Delaware corporation,)
Defendant.)

DECLARATION OF CARL WILSON IN SUPPORT OF RESPONSE TO
HARPERCOLLINS' MOTION FOR SUMMARY JUDGMENT
RE AUDREE WILSON'S CLAIMS

I, Carl Wilson, hereby declare as follows:

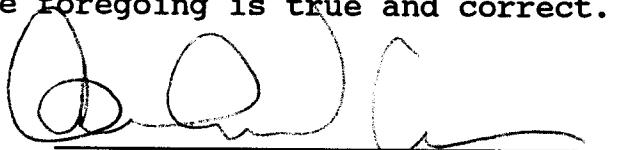
1. This declaration discusses the falsity of passages from Wouldn't It Be Nice, purportedly written by Brian Wilson with Todd Gold (the "Book"), which are the subject of my mother Audree Wilson's libel action. This declaration is based on my personal knowledge, and if I called as I witness I would and could testify to the truthfulness of my declaration.

2. The Book (p. 27) accuses my mother Audree of failing to intercede in "flagrant child abuse going on in front of her", against my brother Brian by my father Murry. The Book describes the flagrant child abuse with the examples of Brian being tied to

a tree, and Brian being hit repeatedly with a splintered 2x4 board across his back and midsection. To my knowledge those incidents never occurred. If they had occurred, or if any incidents of that magnitude had occurred, I surely have known about them since I shared a room with my brother Brian and we talked about the punishments we received from our father. While our father did spank or hit us from time to time while we were growing up, I never experienced or heard about the types of flagrant child abuse described in the Book.

Executed this 19th day of March, 1997, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.


Carl Wilson



Secrets of California's Top Gardeners
The Beach Boys: Trying to Catch Another Wave

75 CENTS

AUGUST 16, 1976

NEWWEST

Superstar
Women
And
Their
Marriages:

Now
The Men
Have the
Supporting
Roles



Ann-Margret
And
Roger Smith



Brian Wilson Is Trying Hard To Catch Another Wave

By Steven Gaines

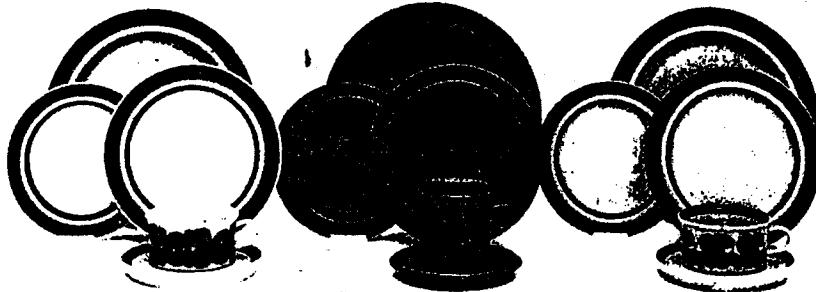
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for people who have
been there.

Imported by: Wisdom Import Sales Co. Inc. Irvine, CA. 92714
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20% OFF SALE ARABIA DINNERWARE

ANEMOME, RUSKA, TROUBADOUR. These are the names of famous hand-painted, dishwasher proof stoneware patterns from **FINLAND**, and now they're on sale at 20% off their regular prices.



A 5 piece place setting consists of a Dinner, Salad, Bread/Butter plate, Cup and Saucer.
(left to right)

ANEMONE reg. 29.75 **barn** 23.80
RUSKA reg. 28.00 **barn** 22.40
TROUBADOUR reg. 30.00 **barn** 24.00

Mall order - 3.00 for postage & handling plus 6% Calif. sales tax.

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THE POTTERY
barn

sheriff's badge. Kiddie 20, who disconsolately tosses them aside. Later he will give them to his daughters, Carnie, eight, and Wendy, six-and-a-half.

"Children's toys," Marilyn Wilson says angrily behind the crowd. "What do people think he wants with children's toys?"

The last gift is a set of stereophonic headphones from Eugene Landy which Brian dutifully puts on his head. "That's just great," Marilyn's sister shrieks, "for Brian's one good ear."

Audree Wilson sits on a sofa on the other side of the room and proudly watches as her oldest son Brian is presented with his birthday cake. "As a youngster Brian was marvelous, very together, a good student, a marvelous athlete. No, he didn't have any problems. Of course, there was the pressure of his career. And his father was a very high-strung man. He would get uptight about things that were just not that important. But no, no real problems."

No stage mother ever rivaled the stage father that the Beach Boys had in Murray Wilson. Murray met his wife Audree at Washington High School, Los Angeles. Their first son, Brian, was born in 1942. Dennis followed two years later, and soon after moving to Hawthorne, five miles from the beaches her sons were to make famous around the world, Audree had her youngest child, Carl.

A frustrated songwriter, Murray Wilson owned a failing machinery shop and took out his rage on his three sons.

"I would yell and yell and helplessly in despair, she says, while Murray unleashed a veritable storm of verbal punishment on the boys—forcing a pre-teen Brian to caramelize on a newspaper to humiliate him or punishing the brothers by forcing them to sit with the socket of his false eye.

"My father just had a unique way of showing his affection," remembers Dennis Wilson, at 32 still a rugged and handsome surfer type, "which consisted of beating the shit out of us. He burned my hands for playing with matches and beat me up in front of my friends.

"The only thing my father really loved was music. He knocked on doors his whole life trying to get his tunes played. His biggest dream was that Lawrence Welk would record one of his tunes. He even made a demo of one of his songs and played it at home twenty times a day. I can remember my Mom frying bacon in the kitchen and him laying in bed yelling, 'Play it again! Play it again!' Boy, he loved the music. He would cry 'boo-hoo,' like the lion in *The Wizard of Oz*, when he heard music."

It's not surprising that in 1961, when the brothers were only nineteen, seventeen, and fifteen years old, they formed a rock group with Mike Love and Al Jardine called Kenny and the Kadets,



HEROES & VILLAINS

The True Story Of The
BEACH BOYS

STEVEN
GAINES



DEPOSITION
EXHIBIT
25 A. Wilson
11-5-96

If our father came in, not to laugh, covering and Brian would keep fall asleep harmonizing Come Down, Come Down remembered Murry with others. "When my dad ake," he said. "It sounded

119th Street and Korn-
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On Saturdays the boys
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"My father resented the fucking kids to death," was Dennis's explanation for it. "The motherfucker hated us, or he would have loved the shit out of us. It's that fucking simple. That asshole beat the shit out of us." Then Dennis grinned sardonically. "He just had a very unique way of expressing himself physically with his kids," he said. "Instead of saying, 'Son, you shouldn't shoot a beebee gun at the streetlight,' he'd go boooom!!! I got the blunt end of the broom. Crack! One minute late! Just one minute late! Boom! And that's it. Brian and Carl would hide in the bathroom, 'Oh God! He's getting it!' Later they'd ask, 'Did it hurt, Dennis?'"

Murry's father beat him; Murry beat his children. Audree watched helplessly from the sidelines, according to Dennis, frightened of Murry herself. "Ohh, please, Murry, no, don't do that."

According to Audree, "He was a taskmaster. He really was. He was tough. And I used to think he was too tough. But, it was a very hard job for him having three teenage boys. He used to call them 'young stallions.'"

"Denny did [get] some pretty hard spankings..." Audree said. "Dennis reminds me very much of his father. Sometimes I think, I don't believe this, it's like Murry revisited. Dennis got the worst of it. Because he was more aggressive. But what constitutes a beating, I don't know."

Indeed, if beating the boys had been all Murry did, it would have been one thing. But Murry had red-faced, screaming, roaring tantrums. On many occasions his punishments went beyond simple beatings into the realm of the sadistic. Dennis spoke of Murry beating him up in the bathtub so he couldn't break anything by kicking. ~~Some to humiliate a preteen Brian, Murry reportedly forced him to defecate on a newspaper or plate in front of the family.~~

~~Some to humiliate a preteen Brian, Murry reportedly forced him to defecate on a newspaper or plate in front of the family. (Audree and her brothers served up "the works" to Murry on a plate, which was reportedly a common point. Both versions of the story are sworn to.) Another time, Murry reportedly tied Brian to a~~